

ESTTA Tracking number: **ESTTA445873**

Filing date: **12/12/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Hero Nutritional Products, LLC
Granted to Date of previous extension	12/21/2011
Address	991 Calle Negocio San Clemente, CA 92673 UNITED STATES
Attorney information	PAUL N TAUGER HERO NUTRITIONAL PRODUCTS LLC 991 CALLE NEGOCIO SAN CLEMENTE, CA 92673 UNITED STATES ptauger@heronutritionals.com Phone:949-498-2280

### Applicant Information

Application No	85277362	Publication date	08/23/2011
Opposition Filing Date	12/12/2011	Opposition Period Ends	12/21/2011
Applicant	Bioplex Nutrition, Inc. 2252 Odell Road Blaine, WA 98230 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Dietary and nutritional supplements
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### Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3418942	Application Date	03/05/2007
Registration Date	04/29/2008	Foreign Priority Date	NONE
Word Mark	SLICEOFLIFE		


Design Mark	<b>SLICEOFLIFE</b>
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2008/01/08 First Use In Commerce: 2008/01/08 Vitamins preparations; and nutritional and dietary supplements

U.S. Registration No.	3472113	Application Date	01/09/2008
Registration Date	07/22/2008	Foreign Priority Date	NONE
Word Mark	SLICEOFLIFE		
Design Mark			
Description of Mark	The mark consists of the Words "Slice of Life" with "Slice" in thin font and "LIFE" in thick font with the word "of" on the "L" in "Life".		
Goods/Services	Class 005. First use: First Use: 2008/01/08 First Use In Commerce: 2008/01/08 Vitamins preparations; and nutritional and dietary supplements		

U.S. Registration No.	3472114	Application Date	01/09/2008
Registration Date	07/22/2008	Foreign Priority Date	NONE
Word Mark	SLICEOFLIFE		
Design Mark			
Description of Mark	The mark consists of the words "SLICE OF LIFE" in Stylized format with a fruit slice above the word "SLICE".		
Goods/Services	Class 005. First use: First Use: 2008/01/08 First Use In Commerce: 2008/01/08 Vitamins preparations; and nutritional and dietary supplements		

U.S. Application No.	85346651	Application Date	06/15/2011
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SLICES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: Nutritional supplements, namely, vitamins, minerals, probiotics, prebiotics and herbals		

U.S. Registration No.	4061786	Application Date	04/29/2008
Registration Date	11/29/2011	Foreign Priority Date	NONE
Word Mark	SLICE OF LIFE GUMMY VITAMINS FOR ADULTS NATURAL FRUIT FLAVORS		
Design Mark			
Description of Mark	<p>The mark consists of the depiction of a vitamin bottle with a cap and label displayed in a dotted line, not claimed as a feature of the mark, but used to indicate placement of the remainder of the mark; on the upper-left corner of the label appears a square with a stylized depiction of a leaf; inside the leaf is the word "HERO"; below the leaf is the word "NUTRITIONALS"; a stylized image of a slice of fruit drops below the square; to the right of the slice are the words "NATURAL FRUIT FLAVOR" stacked atop one another; centered along the bottom of the label are the stylized words "SLICE OF LIFE" with the "OF" inside the second "L"; centered below "SLICE OF LIFE" are the words "GUMMY VITAMINS FOR ADULTS".</p>		
Goods/Services	Class 005. First use: First Use: 2008/01/08 First Use In Commerce: 2008/01/08 Vitamins preparations; and nutritional and dietary supplements		

Attachments	76673601#TMSN.gif ( 1 page )( bytes )
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	77367496#TMSN.jpeg ( 1 page )( bytes ) 77367501#TMSN.jpeg ( 1 page )( bytes ) 85346651#TMSN.jpeg ( 1 page )( bytes ) 77460416#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition for S Line and attachments 12.12.11.doc.pdf ( 23 pages )(5431150 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/paul n. tauger/
Name	PAUL N TAUGER
Date	12/12/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

**Hero Nutritional Products, LLC,**

**Opposer,**

**v.**

**Bioplex Nutrition, Inc.,**

**Applicant**

**Opposition No.: ESTTA436495**

**Mark: S LINE**  
**Serial No.: 85277362**

**NOTICE OF OPPOSITION**

Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Dear Sir/Madam:

Opposer, Hero Nutritional Products, LLC ("Hero") is a California Limited Liability Company, residing at 991 Calle Negocio, San Clemente, CA 92673. To the best of Opposer's knowledge, the name and address of the current owner of the above-identified Application is Bioplex Nutrition, Inc., a Corporation, residing at 2252 Odell Road, Blaine, WA 98230.

The Opposer believes that it is and will be damaged by registration of the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is the owner of:
  - a. Registration No. 3,418,942 for the mark SLICEOFLIFE, for which an application was filed on March 5, 2007 ("Mark")
  - b. Registration No. 3,472,113 for the mark SLICEOFLIFE, for which an application was filed on January 9, 2008 ("Mark")

- c. Registration No. 3,472,114 for the mark SLICEOFLIFE, for which an application was filed on January 9, 2008 ("Mark")
- d. Serial No. 85,346,651 for the mark SLICES, for which an application was filed on June 15, 2011 ("Mark")
- e. Serial No. 77,460,416 for the mark SLICE OF LIFE GUMMY VITAMINS FOR ADULTS NATURAL FRUIT FLAVORS, for which an application was filed on April 29, 2008 ("Mark")

Two copies of a current printout of information from the electronic database records of the United States Patent and Trademark Office showing the current status and title of the registrations are attached herewith.

- 2. Opposer is a producer of well-known nutraceuticals, vitamins and dietary supplements. It has used its Marks since as early as June 1996, and has substantially and continuously used the Marks since that time in connection with its products. Opposer is renown/well-known for its products associated with the Marks. Due to Opposer's marketing efforts, the goods associated with the Marks are well known and widely recognized by consumers and third parties.
- 3. Applicant is not entitled to registration of the alleged Mark S LINE on the grounds that pursuant to §2(d) the Mark may be likely to cause mistake, to deceive, or cause confusion with, in part:
  - a. Registration No. 3,418,942 for the mark SLICEOFLIFE, for which an application was filed on March 5, 2007 ("Mark")
  - b. Registration No. 3,472,113 for the mark SLICEOFLIFE, for which an application was filed on January 9, 2008 ("Mark")

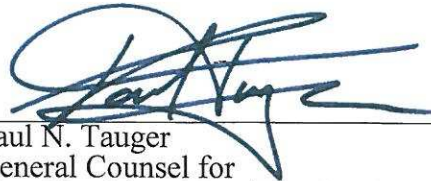
- c. Registration No. 3,472,114 for the mark SLICEOFLIFE, for which an application was filed on January 9, 2008 ("Mark")
- d. Serial No. 85,346,651 for the mark SLICES, for which an application was filed on June 15, 2011 ("Mark")
- e. Serial No. 77,460,416 for the mark SLICE OF LIFE GUMMY VITAMINS FOR ADULTS NATURAL FRUIT FLAVORS, for which an application was filed on April 29, 2008 ("Mark"),

which are earlier than Applicant's admitted date of first use and its filing date of March 25, 2011. Applicant's goods are related to Opposer's goods in the identical international class, Opposer and Applicant market in the same channels of trade, and market to the same consumers. Accordingly, as Applicant's proposed mark so resembles Opposer's Marks as to be likely to cause confusion, mistake or deceive, Opposer will be damaged by the registration of Applicant's mark.

WHEREFORE, Opposer Hero requests that this Notice of Opposition be granted in its favor, and that Serial No. 85277362 be denied registration on the Principal or Supplemental Register.

Dated: December 12, 2011

Respectfully submitted,



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Paul N. Tauger  
General Counsel for  
Hero Nutritional Products, LLC



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**Record 1 out of 1**[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)**SLICEOFLIFE**

**Word Mark** SLICEOFLIFE

**Goods and Services** IC 005. US 006 018 044 046 051 052. G & S: Vitamins preparations; and nutritional and dietary supplements. FIRST USE: 20080108. FIRST USE IN COMMERCE: 20080108

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 76673601

**Filing Date** March 5, 2007

**Current Filing Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** September 11, 2007

**Registration Number** 3418942

**Registration Date** April 29, 2008

**Owner** (REGISTRANT) Hero Nutritional Products, L.L.C. LIMITED LIABILITY COMPANY  
CALIFORNIA 991 Calle Negocio San Clemente CALIFORNIA 92673

**Attorney of Record** Paul N. Tauger

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# slice of life

<b>Word Mark</b>	SLICEOFLIFE
<b>Goods and Services</b>	IC 005. US 006 018 044 046 051 052. G & S: Vitamins preparations; and nutritional and dietary supplements. FIRST USE: 20080108. FIRST USE IN COMMERCE: 20080108
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Trademark Search Facility Classification Code</b>	SHAPES-MISC Miscellaneous shaped designs
<b>Serial Number</b>	77367496
<b>Filing Date</b>	January 9, 2008
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 6, 2008
<b>Registration Number</b>	3472113
<b>Registration Date</b>	July 22, 2008
<b>Owner</b>	(REGISTRANT) Hero Nutritional Products, LLC. LIMITED LIABILITY COMPANY CALIFORNIA 991 Calle Negocio San Clemente CALIFORNIA 92673
<b>Attorney of Record</b>	Paul N. Tauger
<b>Description of</b>	Color is not claimed as a feature of the mark. The mark consists of the Words "Slice of Life" with

**Mark** "Slice" in thin font and "LIFE" in thick font with the word "of" on the "L" in "Life".  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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Word Mark	SLICEOFLIFE
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Vitamins preparations; and nutritional and dietary supplements. FIRST USE: 20080108. FIRST USE IN COMMERCE: 20080108
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Trademark Search Facility Classification Code	SHAPES-MISC Miscellaneous shaped designs
Serial Number	77367496
Filing Date	January 9, 2008
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	May 6, 2008
Registration Number	3472113
Registration Date	July 22, 2008
Owner	(REGISTRANT) Hero Nutritional Products, LLC. LIMITED LIABILITY COMPANY CALIFORNIA 991 Calle Negocio San Clemente CALIFORNIA 92673
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**Mark** "Slice" in thin font and "LIFE" in thick font with the word "of" on the "L" in "Life".  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**slice of life**

<b>Word Mark</b>	SLICEOFLIFE
<b>Goods and Services</b>	IC 005. US 006 018 044 046 051 052. G & S: Vitamins preparations; and nutritional and dietary supplements. FIRST USE: 20080108. FIRST USE IN COMMERCE: 20080108
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	05.09.13 - Fruits (slices or quarters of)
<b>Trademark Search Facility</b>	SHAPES-MISC Miscellaneous shaped designs
<b>Classification Code</b>	VEG Plant life such as trees, flowers, fruits, grains, nuts, wreaths, and leaves
<b>Serial Number</b>	77367501
<b>Filing Date</b>	January 9, 2008
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 6, 2008
<b>Registration Number</b>	3472114
<b>Registration Date</b>	July 22, 2008



**Owner** (REGISTRANT) Hero Nutritional Products, LLC. LIMITED LIABILITY COMPANY CALIFORNIA 991  
Calle Negocio San Clemente CALIFORNIA 92673

**Attorney of Record** Paul N. Tauger

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the words "SLICE OF LIFE" in Stylized format with a fruit **slice** above the word "SLICE".

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# slicelife

<b>Word Mark</b>	SLICEOFLIFE
<b>Goods and Services</b>	IC 005. US 006 018 044 046 051 052. G & S: Vitamins preparations; and nutritional and dietary supplements. FIRST USE: 20080108. FIRST USE IN COMMERCE: 20080108
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	05.09.13 - Fruits (slices or quarters of)
<b>Trademark Search Facility Classification Code</b>	SHAPES-MISC Miscellaneous shaped designs VEG Plant life such as trees, flowers, fruits, grains, nuts, wreaths, and leaves
<b>Serial Number</b>	77367501
<b>Filing Date</b>	January 9, 2008
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 6, 2008
<b>Registration Number</b>	3472114
<b>Registration Date</b>	July 22, 2008
<b>Owner</b>	(REGISTRANT) Hero Nutritional Products, LLC. LIMITED LIABILITY COMPANY CALIFORNIA 991 Calle Negocio San Clemente CALIFORNIA 92673
<b>Attorney of</b>	Paul N. Tauger

**Record**

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the words "SLICE OF LIFE" in Stylized format with a fruit slice above the word "SLICE".

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# Slices

<b>Word Mark</b>	SLICES
<b>Goods and Services</b>	IC 005. US 006 018 044 046 051 052. G & S: Nutritional supplements, namely, vitamins, minerals, probiotics, prebiotics and herbals
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85346651
<b>Filing Date</b>	June 15, 2011
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 15, 2011
<b>Owner</b>	(APPLICANT) Hero Nutritional Products, LLC DBA Hero Nutritionals LLC LIMITED LIABILITY COMPANY CALIFORNIA 991 Calle Negocio San Clemente CALIFORNIA 92673
<b>Attorney of Record</b>	Paul N. Tauger
<b>Prior Registrations</b>	3418942;3472113;3472114
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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**Word Mark** SLICE OF LIFE GUMMY VITAMINS FOR ADULTS NATURAL FRUIT FLAVORS  
**Goods and Services** IC 005. US 006 018 044 046 051 052. G & S: Vitamins preparations; and nutritional and dietary supplements. FIRST USE: 20080108. FIRST USE IN COMMERCE: 20080108  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design** 05.03.25 - Leaf, single; Other leaves  
**Search Code** 19.09.01 - Bottles, jars or flasks of conical or triangular shape; Flasks with conical or triangular shape; Jars with conical or triangular shape; Jars with conical or triangular shape  
 26.15.25 - Polygons with one or more curved sides  
**Serial Number** 77460416  
**Filing Date** April 29, 2008  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** June 15, 2010  
**Owner** (APPLICANT) Hero Nutritional Products, LLC. LIMITED LIABILITY COMPANY CALIFORNIA 991 Calle Negocio San Clemente CALIFORNIA 92673  
**Attorney of Record** Paul N. Tauger  
**Prior Registrations** 2967980;3472113;3472114;AND OTHERS  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NUTRITIONALS", "NATURAL FRUIT FLAVORS" OR "GUMMY VITAMINS FOR ADULTS" APART FROM THE MARK AS SHOWN  
**Description of** Color is not claimed as a feature of the mark. The mark consists of the depiction of a vitamin bottle



**Mark** with a cap and label displayed in a dotted line, not claimed as a feature of the mark, but used to indicate placement of the remainder of the mark; on the upper-left corner of the label appears a square with a stylized depiction of a leaf; inside the leaf is the word "HERO"; below the leaf is the word "NUTRITIONALS"; a stylized image of a slice of fruit drops below the square; to the right of the slice are the words "NATURAL FRUIT FLAVOR" stacked atop one another; centered along the bottom of the label are the stylized words "SLICE OF LIFE" with the "OF" inside the second "L"; centered below "SLICE OF LIFE" are the words "GUMMY VITAMINS FOR ADULTS".

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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